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BEFORE THE  
POLLUTION CONTROL HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF  
BUFFELEN WOODWORKING, CO.,

Appellant,

v.

PUGET SOUND AIR POLLUTION

Respondent.

PCHB No. 343

FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

A formal hearing on the appeal of the Buffelen Woodworking Company to a notice of civil Penalty of \$50.00 for al alleged smoke emission violation came on before the Board in Seattle, Washington, on July 26, 1978. James Sheehy, a member of the Board, presided. The other two members of the Board were unable to be present.

Appellant appeared through Harold R. Aasland, General Manager. Respondent appeared by and through its attorney, Keith D. McGoffin.

Having heard the testimony, reviewed and studied the transcript, considered the exhibits, and being fully advised the Board makes the

(retyped for clarity)

1 following:

2 FINDINGS OF FACT

3 I.

4 The Buffelen Woodworking Company, a cooperative business venture,  
5 is engaged in the manufacture of various finished wood products at  
6 Lincoln Avenue and Taylor Way in Tacoma, Washington. Its mailing  
7 address is P. O. Box 1383, Tacoma, Washington 98401.

8 II.

9 On March 26, 1973, appellant caused or allowed black smoke to be  
10 emitted from its hog fuel boiler stack for sixteen (16) minutes. Such  
11 emission was read by an inspector of the Puget Sound Air Pollution  
12 Control Agency for the sixteen minute period and judged by him to be a  
13 Ringelmann No. 5. The reading was taken from 2:00 p.m. to 2:17 p.m.

14 III.

15 Section 9.03(a) of respondent's Regulation I makes it unlawful to  
16 cause or allow the emission of an air contaminant for a period or  
17 periods aggregating more than three (3) minutes in any one hour, which  
18 is darker in shade than that designated as No. 2 on the Ringelmann  
19 Chart, as published by the United States Bureau of Mines.

20 IV.

21 Appellant asks for an exception from the alleged violation due to  
22 an emergency situation covered in respondent's Regulation I, Section  
23 9.03(c)(2), having called respondent's control officer at 2:20 p.m.,  
24 the same time that the Notice of Violation No. 7505 was issued to  
25 appellant.

26 FINDINGS OF FACT,  
27 CONCLUSIONS AND ORDER

V.

Respondent's inspector started taking pictures of the black smoke emission from appellant's plant at 1:54 p.m. on the date of violation; completed the picture taking before 2:00 p.m.; started taking Ringelmann readings at 2:00 p.m. and continued same until 2:17 p.m.; issued Notice of Violation No. 7505 at 2:20 p.m.

VI.

Respondent had on two prior occasions, August 2, 1972 and November 2, 1972, issued Notices of Violation Nos. 5519 and 6851 respectively to appellant for which no civil penalties were assessed.

From which comes these

CONCLUSIONS OF LAW

I.

Appellant was in violation of Section 9.03(a) of respondent's Regulation I.

II.

Appellant was fully aware of the potential problem of smoke emissions arising from firing conditions in the hog fuel boiler.

III.

Appellant had ample time from 1:54 p.m. when respondent's inspector commenced taking pictures until 2:20 p.m. when the Notice of Violation was issued to report its upset boiler condition to respondent's control officer.

IV.

Having been considerate in not assessing appellant for smoke emission violations on two previous occasions, respondent can hardly

FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

1 be charged with being inflexible in its unwillingness to consider the  
2 delayed call of appellant to respondent's control officer as an  
3 exception under Section 9.03(c)(2) of respondent's Regulation I.

4 V.

5 The civil penalty of \$50.00 is reasonable.

6 From which comes this

7 ORDER

8 The appeal is denied and the civil penalty is affirmed.

9 DONE at Lacey, Washington this \_\_\_\_\_ day of August, 1973.

10 POLLUTION CONTROL HEARINGS BOARD

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WALT WOODWARD, Chairman

W. A. GISSBERG, Member

JAMES T. SHEEHY, Member

FINDINGS OF FACT,  
CONCLUSIONS AND ORDER